

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the matter of:	)	
	)	
A petition filed by the states of Louisiana and Mississippi	)	Docket No. 96-45
requesting a special filing window for Funding Year 2006	)	Docket No. 02-6
for schools and libraries directly affected by Hurricane Katrina	)	
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**REPLY COMMENT FROM THE STATES OF LOUISIANA AND MISSISSIPPI**

On November 18, 2005, the Wireline Competition Bureau issued a Public Notice (DA 05-3001) seeking comment on two petitions for further waiver of Commission rules to extend relief provided in FCC 05-178 to directly affected schools and libraries in Louisiana, Mississippi, and Texas. The first of those petitions was submitted by the states of Louisiana and Mississippi and requested a special filing window for Funding Year (FY) 2006, until September 30, 2006, for schools and libraries in Louisiana and Mississippi directly affected by Hurricane Katrina and a waiver of the 2-in-5 rule for such directly affected entities for FY 2006.

On December 7, 2005, the E-Rate Service Provider Forum (ESPF) submitted comments supporting the petition and stressing the importance that applications filed in the special window be funded with unused funds from prior years so as not to disrupt commitments to other applicants. On December 9, 2005, the State E-Rate Coordinators Alliance (SECA) provided comments supporting the petition on the condition that any funds for Katrina relief beyond the \$132 million set aside in the original Katrina relief order and any funds needed to fund any requests submitted for FY 2006 after the February 16, 2006 close of the regular filing window be funded only from unused funds from prior years. Unused funds from prior years are currently estimated by the Universal Service Administrative Company (USAC) at \$365 million. SECA also sought release of the remaining \$2.25 billion after the \$132 million set-aside in FY 2005 funds to fund internal connections below the current 90 percent funding threshold for schools and libraries across the country.

We write to reply to the ESPF and SECA comments.

Our original petition recommended that requests in the special filing window for FY 2006 be funded with unused funds from prior years so that USAC could administer funding for applicants in all other states with the annual \$2.25 billion without disruption. We reiterate our support of that recommendation.

We do not expect that requests for Katrina relief in FY 2005 will exceed the \$132 million already set aside by the Commission, nor do we expect that requests

that would be filed in the special FY 2006 window would exceed the current estimate of \$365 million of unused funds from prior years. However, that would not be known for certain until after the special window closed on September 30, 2006. Therefore, we think the Commission should address the possibility that unused funds will be insufficient if it grants the petition, and we recommend that, in the event of a shortfall, funding for all approved requests filed in the special window be prorated based on the ratio of unused funds available to the total amount of approved requests on applications filed in the special window.

The justification for the special window that we provided in the petition was that the extent of damage to many directly affected schools and libraries was so great, and the effect on populations they serve so uncertain, that many will not be able to reliably estimate, by the February 16, 2005 close of the regular filing window for FY 2006, how many facilities will reopen for the 2006-2007 or 2007-2008 school years or what E-rate-eligible equipment and services they will require to reopen them. Extending the special window to September 30, 2006, will enable the affected applicants to take more time to assess and plan and to submit well-justified requests for Katrina relief as authorized by the Commission.

If the Commission grants the petition, USAC will not be able to make commitments on applications filed in the special window until after the window closes and USAC determines the magnitude of approved requests and whether proration will be required. Many entities, however, may be in a position to begin rebuilding before the commitment letters are issued. In order to provide them with as much information as possible about the degree of relief they may expect, we recommend that the Commission direct USAC to issue funding commitment letters on applications filed in the special window as the applications are reviewed and before the window closes, and that those letters show requests “as yet unfunded” and indicate the “approved requested amount” for each request (i.e., the discounted share of the prediscount amount that USAC, during its review, determines is approvable within FCC rules). The letter would indicate that the approved requested amount will be fully funded if the total amount of approved requests on applications filed in the special window is ultimately determined to be less than the amount of unused funds available for such requests, or it will be prorated if not.

### *Conclusion*

We continue to believe that establishment of a special filing window for FY 2006 to remain open until September 30, 2006, for schools and libraries directly affected by Hurricane Katrina will be of great help for our states and for all states. If the waiver is not granted, these directly affected entities will be forced to apply for everything they MIGHT need, without proper planning, and, in doing so, will potentially waste commitment dollars (funding commitments that cannot be used). This would have a negative impact on the rest of the applicants.

We believe that limiting funding for the special FY 2006 window to unused funds available from prior funding years will provide relief to directly affected entities in Louisiana and Mississippi without disrupting the flow of E-rate funds to other states. Providing for proration of approved requests if unused funds are insufficient to fully fund all approved requests in the special window will assure the

Commission that USAC will be able to administer the special window even if unused funds are insufficient to meet demand. And providing early funding notification subject to change to applicants who file during the special window will best enable affected applicants to make judgments about proceeding with rebuilding with expected E-rate support.

Respectfully submitted on behalf  
of the states of Louisiana and Mississippi,

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Dated: December 19, 2005